

Anti-Dumping Duty/ Countervailing Duty (ADD/CVD) TECHNICAL INFORMATION FOR PRE-ASSESSMENT SURVEY (TIPS)

TABLE OF CONTENTS

PART 1 BACKGROUND.....	2
PART 2 ADD/CVD GUIDANCE	2
2.1 EXAMPLES OF RED FLAGS.....	3
2.2 EXAMPLES OF BEST PRACTICES.....	3
2.3 EXAMPLES OF DOCUMENTS AND INFORMATION TO REVIEW	4
PART 3 RISK ASSESSMENT AND INTERNAL CONTROL GUIDANCE	4
3.1 RISK	4
<i>A. Preliminary Assessment of Risk.....</i>	<i>4</i>
<i>B. Evaluation of Risk Acceptability</i>	<i>5</i>
3.2 INTERNAL CONTROL.....	5
3.3 EXTENSIVENESS OF AUDIT SAMPLE TESTS (TESTING LIMIT)	6
3.4 EVALUATION OF PRE-ASSESSMENT SURVEY TESTING RESULTS.....	7
3.5 EXAMPLES.....	7
PART 4 WORKSHEET FOR EVALUATING INTERNAL CONTROL (WEIC) – ADD/CVD	9

Anti-Dumping Duty/ Countervailing Duty (ADD/CVD) TECHNICAL INFORMATION FOR PRE-ASSESSMENT SURVEY (TIPS)

PART 1 BACKGROUND

The purpose of this document is to provide guidance in performing a Pre-Assessment Survey (PAS) of a company's internal controls for anti-dumping duty/countervailing duty (ADD/CVD) and evaluating the results.

Generally Accepted Government Auditing Standards require the auditors to obtain a sufficient understanding of internal controls to plan the audit and determine the nature, timing, and extent of tests to be performed.

The guidelines and terms in this document are based on Assessing Internal Controls in Performance Audits, GAO/OP-4.1.4, published by the United States General Accounting Office, Office of Policy, September 1990, and American Institute of Certified Public Accountants Statement on Auditing Standards No. 78.

PART 2 ADD/CVD GUIDANCE

ADD's are assessed on imported merchandise of a class or kind that is sold to purchasers in the United States at a price less than the fair market value. Fair market value of merchandise is the price at which it is normally sold in the manufacturer's home market. CVDs are assessed to counter the effects of subsidies provided by foreign governments to merchandise that is exported to the United States. These subsidies cause the price of such merchandise to be artificially low, which causes economic "injury" to U.S. manufacturers.

19 CFR, Chapter III, section 351.211(b)(1) Instructs the Customs Service to assess antidumping duties or countervailing duties (whichever are applicable) on the subject merchandise in accordance with Secretary of Commerce instructions.

ADD/CVD rates are intended to be punitive, and therefore can be quite high. A rate in excess of 100 percent is not unusual. Therefore, the major risk to Customs is that these duties will not be paid, or will not be paid at the proper rate.

An antidumping or countervailing duty order is issued after an ADD/CVD investigation. When an order is issued, deposit rates are established for a specified period. At the end of that period, final rates are determined. The final rates for that period generally become the deposit rates for the next period. Liquidation of entries subject to ADD/CVD is suspended until final rates are determined.

All orders, deposit rates and final rates are published in the Federal Register. Each order is specific as to the commodity, country of origin, and the manufacturer/shipper. An "all other" rate for the specified commodity and country applies to Manufacturers/shippers for which a specific order was not issued. Multiple dumping or countervailing duty orders may be applicable to merchandise imported by a single importer. Orders for the same commodity and country of origin may have different ADD/CVD rates for different manufacturers/suppliers.

The commodities on an ADD/CVD order may be extremely specific. For instance, left-handed widgets may be covered, and right-handed are not. Frequently, there is not a one-to-one match between the commodities covered by an order and a tariff number. The tariff number under which the covered commodity falls may include other merchandise not covered by the ADD/CVD order. Conversely, the merchandise described by the order may be broad enough to be covered under several tariff numbers. The Department of Commerce frequently issues scope rulings to clarify which commodities are covered by an order.

The correct order must be cited on the entry summary. It is therefore important to obtain a copy of all orders related to the importer under audit from the import specialist or the importer.

There are two prongs to auditing ADD/CVD. The first is to verify that the correct order was used on merchandise entered. The second prong is to look for entries that should have been covered by ADD/CVD, but were not.

When sampling to verify the accuracy of declared ADD/CVD, it is important to review the order cited on the entry and the supporting documentation for the purchase to assure that the commodity, country of origin and manufacturer for the imported merchandise agree with the cited order.

When the importer imports merchandise that is potentially subject to ADD/CVD orders, it is important to discuss with the import specialist possible tariff numbers that may cause the importer to improperly declare or fail to declare ADD/CVD. In some instances, importers have tried to use informal entries or FTZ and warehouse entries to avoid payment of ADD/CVD. Testing for potential misclassifications and warehouse and FTZ entries may help determine if ADD/CVD orders are being circumvented.

ADD/CVD orders are issued for specific commodities by manufacturer and country of origin. A list of open orders can be obtained from the ITC web site at www.usitc.gov.

2.1 EXAMPLES OF RED FLAGS

The following examples are conditions that may indicate a potential problem in ADD/CVD.

- Company has insufficiently documented, poorly defined, or no internal controls for accurately declaring ADD/CVD. Examples:
 - ✓ Company does not monitor or interact with the broker on ADD/CVD issues.
 - ✓ Company relies on one employee to handle ADD/CVD issues, and there are poor or no management checks or balances over this employee.
- Company's Customs staff lacks knowledge of ADD/CVD issues.
- Company offers unreasonable explanations to Customs.
- Company fails to cooperate with or respond to Customs.
- Company has high turnover of people in key positions.
- Significant variance exists between the importer's data and Customs data relative to ADD/CVD.
- Customs history (import specialist, account manager, compliance measurements, prior audit) shows problems with ADD/CVD.
- Company imports merchandise known or suspected to be subject to ADD/CVD.
- Specific issues are identified in the profile, such as switching trends in Harmonized Tariff System of the United States (HTSUS), country of origin, merchandise description, Manufacturer's Identification (MID).
- Mill certificates are not available upon request (i.e., steel).
- Merchandise enters via unusual entry types such as Temporary Importation Bond (TIB), immediate export, or bonded warehouse.
- Company receives reimbursements (rebates) for ADD/CVD.
- Import department does not have copies of ADD/CVD orders.
- Recently issued order that the company may not be aware of.

2.2 EXAMPLES OF BEST PRACTICES

- Internal controls over ADD/CVD:
 - ✓ Are in writing,
 - ✓ Include having a copy of all applicable ADD/CVD orders,
 - ✓ Include procedures for monitoring and feedback, and
 - ✓ Are monitored by management.
- One manager ultimately is responsible for control of the import department, including ADD/CVD. That manager has knowledge of Customs matters and the power to ensure that internal control procedures for imports are established and followed by all company departments.
- Internal control procedures assign duties and tasks to a specific position rather than a person.
- Company has good interdepartmental communication about Customs matters.
- Company conducts and documents periodic reviews of ADD/CVD and uses the results to make corrections to entries and changes to its import operations as appropriate.
- Purchasing, Engineering, other departments, and suppliers provide sufficient information for determining whether merchandise is subject to ADD/CVD.
- Company conducts periodic reviews of the ITC web site to identify open orders and other pertinent new information. (www.usitc.gov)

2.3 EXAMPLES OF DOCUMENTS AND INFORMATION TO REVIEW

- Internal control policies and procedures.
- ADD/CVD orders.
- Company's responses to the questionnaire.
- Interviews with company staff concerning internal controls specific to ADD/CVD.
- Company documentation that supports monitoring and verification of established and/or written internal controls for ADD/CVD (e.g., reports, process flowchart, and memoranda).
- CF 28, CF 29, and Fines, Penalties, and Forfeitures (FP&F) records.

PART 3 RISK ASSESSMENT AND INTERNAL CONTROL GUIDANCE

PAS team judgment should be used to determine the type and amount of testing needed to evaluate the effectiveness of internal controls and to determine if there is sufficient risk to warrant proceeding to the Assessment Compliance Testing (ACT) phase.

Using the chart and guidelines below, determine through limited judgmental testing whether the company's internal controls are effective.

To determine the extensiveness of internal control testing, it is necessary to evaluate:

1. **Risk**, and
2. The **internal controls** system by determining if the controls are in operation, how the controls were applied, how consistently they are applied, and who applies them.

3.1 RISK

A. Preliminary Assessment of Risk

Before any audit work begins at the company the team should make a preliminary assessment of risk (PAR) using information obtained from Customs or publicly available

information. The purpose of the PAR is to evaluate identified potential risks to Customs based on analytical reviews of Customs data and other Customs information. This review will identify areas of potential risk and eliminate some areas with insignificant risk. The PAR should be conducted using the form in Attachment 1 to the PAS Audit Program.

Preliminary Assessment of Risk Examples

Example A: High Risk Assessment

A company that is a major importer of bearings imports a huge volume of bearings from a manufacturer that is the subject of a specific antidumping order. Automated Commercial System (ACS) records showed the company filed relatively few ADD entries. Therefore, the preliminary assessment of risk is high.

Example B: Low Risk Assessment

A company that is a major importer of pineapples had three imports of bearings that were subject to an ADD order. The bearings were used for replacement parts in the processing plant. These were the only bearing imports by the company. The import specialist did not have any concerns in this area. Therefore, the preliminary assessment of risk is low.

B. Evaluation of Risk Acceptability

After the audit work begins with the company, the team will refine the assessment of risk exposure. After all audit work has been completed the team will determine whether risk is acceptable or unacceptable using the PAS Audit Program as summarized in the following steps.

- Determine what activities pose a significant risk to Customs.
- Test the existence, effectiveness and implementation of internal control and determine if internal control is adequate to control risk.
- Using the results of the internal control review, develop an opinion whether risk is acceptable or unacceptable.

3.2 INTERNAL CONTROL

To evaluate the internal control system:

1. Consideration should be given to the five components of internal control:

- Control Environment
- Risk Assessment
- Control Activities
- Information and Communication
- Monitoring

2. Review relevant Customs and company documents to identify and understand internal controls over ADD/CVD. (Examples of documents and information to review are listed above.)
3. Determine whether the company has established and follows procedures. Review:
 - Documentary evidence of the results of periodic internal control reviews/testing and corrective action implemented.
 - Documentary evidence of communication with the broker and company departments on ADD/CVD issues, including company testing of broker operations and verification that the broker followed company instructions.
 - Company-specific rulings requested to determine if they are followed.
 - Documentary evidence of inter-company communications to ensure that correct information is provided to Customs.
 - Training records and materials used to educate staff on Customs matters.
4. Review written policies and procedures and interview applicable company personnel to complete appropriate sections of the Worksheet for Evaluating Internal Control (WEIC) for ADD/CVD in PART 4 of this document

Note: The internal control assessment should include steps to:

- Identify and understand internal controls
- Determine what is already known about control effectiveness
- Assess the adequacy of internal control design
- Determine if controls are implemented and effective
- Determine if transaction processes are documented

3.3 EXTENSIVENESS OF AUDIT SAMPLE TESTS (TESTING LIMIT)

The purpose of limited PAS testing is to take a survey in order to determine the necessity for and extent of substantive tests. In some circumstances, the PAS team may decide that it probably will not be able to form an opinion based on limited PAS testing. In such cases, it may be necessary to proceed immediately to the ACT process. If the PAS team believes that it can form an opinion based on limited PAS testing, it should test the appropriate number of controls and associated transactions using the table below. The greatest risk related to ADD/CVD is failure to report imports subject to ADD/CVD. Accordingly, the assessment process should emphasize testing of procedures to assure that imports subject to ADD/CVD are reported. Because of the difficulty of accomplishing this with limited testing, this area may require substantive testing if the risk exposure is moderate or high.

Extensiveness of Audit Tests

PAR Level	+	Preliminary Review Internal Control	=	Extensiveness of Audit Test	Testing Limit
High		Weak Adequate Strong		High Moderate to High Low to Moderate	10-20

PAR Level	+	Preliminary Review Internal Control	=	Extensiveness of Audit Test	Testing Limit
Moderate		Weak Adequate Strong		Moderate to High Moderate Low	5-15
Low		Weak Adequate Strong		Low to Moderate Low Very Low	1-10

Source: Adapted from *Assessing Internal Controls in Performance Audits*.
Column titled "Testing Limit" reflects Customs test sizes.

3.4 EVALUATION OF PRE-ASSESSMENT SURVEY TESTING RESULTS

The following steps are guidance for determining the effectiveness of a company's internal controls over ADD/CVD.

1. Complete the WEIC for ADD/CVD to determine whether risk is acceptable or unacceptable and document why. Put results of testing in perspective and evaluate confirmed weakness as a whole. The evaluation should consider the results of the internal control testing, problems identified in the profile, and/or concerns raised by the import specialist or account manager. The team must evaluate the PAS results based on the specific situations.
2. The following will assist the PAS team in determining whether conditions warrant proceeding to ACT.

Do not proceed to ACT if:

- Cost-benefit analysis warrants no further effort, (do not spend a significant amount of resources to identify a potential loss of revenue considered insignificant.) and
- The result of review indicated that the error was due to an isolated incident.
- If substantive tests necessary to determine a compliance rate or revenue loss can be performed quickly and without extensive effort, the team should immediately perform the substantive tests without proceeding to ACT.

Proceed to ACT if:

- The company does not have an adequate internal control and the review indicated a material loss of revenue that cannot be quantified without statistical sampling or further review.
- The importer will not quantify the loss of revenue.
- The company refuses to take corrective action on systemic errors and it is necessary to calculate a compliance rate to evidence significant non-compliance.

3. Determine whether referrals should be made for enforcement actions.

3.5 EXAMPLES

The following examples of situations that might be encountered under PAS are *for clarification purposes only*.

Example A: Situation in which the team would not proceed to ACT (Revenue)

During the PAS, the team found an item that was subject to ADD/CVD but had not been declared. Although the company's Customs Department had discovered the error and notified the broker, the Customs clerk had not followed up with the broker to make sure the ADD/CVD entries were corrected. The company readily agreed that the merchandise was subject to ADD/CVD. The company agreed to quantify the loss of revenue within 30 days and to tender all monies due.

Example B: Situation in which the team would not proceed to ACT (Compliance)

The same situation in example A above, except that the company agreed that the Customs manager would monitor the clerk's work and broker corrections in the future. Because the company elevated its monitoring of the broker to a management level and the ADD/CVD entries were corrected, the team agreed that the weakness was corrected and the errors did not present an unacceptable internal control risk.

Example C: Situation in which the team would proceed to ACT (Revenue)

The company imports a significant volume of merchandise subject to ADD/CVD. The company is not knowledgeable about ADD/CVD requirements and has no internal controls. A comparison of ACS data and company purchasing records shows a large discrepancy. ACS data showed the company imported \$3 million worth of merchandise subject to ADD/CVD from a particular manufacturer. However, the company's accounting records revealed that the importer had actually purchased \$6 million worth of merchandise subject to ADD/CVD.

Example D: Situation in which the team would proceed to ACT (Compliance and Revenue)

The company imports merchandise that was subject to a dumping order. The company has not been filing the entries as "03" (dumping entries) but as regular "01" entries. The extent of the problem is unknown, and the company is unwilling to quantify it.

PART 4 WORKSHEET FOR EVALUATING INTERNAL CONTROL (WEIC) – ADD/CVD

PURPOSE: To determine whether ADD/CVD risk is acceptable.

The completion of this worksheet provides evidence that the five components of internal control: Control Environment, Risk Assessment, Control Activities, Information and Communications, and Monitoring were evaluated.

During this phase of the process, an internal control review will be completed and factors for internal control related to an assessment of Risk Exposure including Internal Control Red Flags, Susceptibility, Management Support and Competent Personnel will be considered. The completion of this worksheet provides evidence that these factors were evaluated.

All answers must be linked to supporting documentation.

OBJECTIVES:

Section 1 - Internal Control Questions	Consolidate information learned about internal control through interviews and document reviews to form a preliminary assessment of internal control before testing. For work paper reference column titled "Is Implementation of Control Supported by Documentation and/or Interviews," confirm that the control is implemented through: <ul style="list-style-type: none"> • Interviews and requesting evidence from the company and • Reviews of documents that provide evidence that the company completed the activity.
Section 2 - Preliminary Internal Control Assessment	Use information consolidated in Section 1 to make a preliminary assessment whether internal control is strong, adequate, weak or nonexistent.
Section 3 - Sample sizes	Use the Risk Exposure Level and the Preliminary Internal Control Assessment to determine the sample size for each sample.
Section 4 - Results of Sample Testing	Use information in Section 4 to record the results of PAS testing to evaluate whether internal control is effective to provide reasonable assurance of compliance.
Section 5 - Risk Opinion	Use information in section 1-4 to record the PAS opinion that risk is acceptable or unacceptable

Section 1 – Internal Control Questions

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
1.	Does the company have formally documented internal control to assure that ADD/CVD are declared when appropriate and correctly declared?					
2.	Does management approve written policies and procedures for ADD/CVD? Do the written procedures include requiring the company to maintain copies of all ADD/CVD orders?					
3.	Does the company review and update written policies and procedures for ADD/CVD periodically?					
4.	Is internal control over ADD/CVD periodically tested and results documented? (This should include post-entry reviews to verify ADD/CVD was declared when appropriate and were correctly declared.)					
5.	If the company found weaknesses during internal control testing of ADD/CVD, did the company correct internal control procedures and entries when appropriate?					
6.	Do written internal control procedures assign responsibility for ADD/CVD reporting to a position rather than an individual?					

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
7.	Does one individual have authority to ensure that internal control procedures for reporting ADD/CVD are established and followed by all company departments?					
8.	Do personnel responsible for reporting ADD/CVD have adequate knowledge and training in ADD/CVD?					
9.	Does the company have adequate interdepartmental communication about ADD/CVD?					
10.	Does the company have procedures to request Customs, Dept. of Commerce or ITC assistance regarding ADD/CVD when needed and is advice followed when given?					
11.	How does the company identify, analyze, and manage risks related to ADD/CVD?					
12.	What risks related to ADD/CVD has the company identified, and what control mechanisms has it implemented?					
13.	Do suppliers, engineers, the purchasing department, laboratory and others provide adequate descriptive information to the Import					

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
	Department to ensure ADD/CVD is declared when appropriate and declared correctly?					
14.	Does the company have policies and procedures in place to: (1) ensure that new items are reviewed for potential liability for ADD/CVD (2) identify new orders issued and determine if they are applicable to imported articles (3) identify new scope rulings for orders related to imported articles?					
15.	Does the company maintain product information about ADD/CVD in a database that is provided to brokers and updated when necessary?					
16.	If the company provides the broker ADD/CVD information, is the broker required to obtain company concurrence prior to making changes?					
17.	Does the company provide adequate broker oversight of ADD/CVD issues?					
18.	List company-specific procedures below (if applicable).					

Section 2 - Preliminary Internal Control Assessment

Use information obtained in section 1 above to make a preliminary assessment of internal control as strong, adequate, weak or nonexistent.

	Strong	Adequate	Weak	None*
Internal Control				

* If the team concludes that the company does not have internal control, risk is not acceptable so proceed to Section 5 below.

Section 3 – Sample Sizes

Use the matrix for determining Extensiveness of Audit Tests in section 3.3 of TIPS to determine the extensiveness of audit tests to confirm that internal control is effective. Multiple samples are possible. Samples and sample items should concentrate on risk.

Sample Area	PAR Level (High, Moderate, or Low)	Internal Control Level (Weak, Adequate, or Strong) From Section 2 Above	Testing Limit (1-20)

Section 4 - Results of Sample Testing

Use the results of sample testing to determine if internal control is effective.

Results of Testing	Yes or No
Is IC effective to provide reasonable assurance to preclude significant risk?	

Section 5 - Risk Opinion

Use the information developed in Sections 1-4 to record the PAS opinion that risk is acceptable or unacceptable.

Risk Opinion	Yes or No	Comments
Acceptable		

If risk is not acceptable the audit team may need to proceed to ACT or have the company do quantification.